

## CHAPTER VIII—NATIONAL TRANSPORTATION SAFETY BOARD

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## PART 800—ORGANIZATION AND FUNCTIONS OF THE BOARD AND DELEGATIONS OF AUTHORITY

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#### APPENDIX TO PART 800—REQUEST TO THE SECRETARY OF THE DEPARTMENT OF TRANSPORTATION TO INVESTIGATE CERTAIN AIRCRAFT ACCIDENTS

AUTHORITY: Independent Safety Board Act of 1974, as amended (49 U.S.C. 1101 *et seq.*); Federal Aviation Act of 1958, as amended (49 U.S.C. 40101 *et seq.*).

SOURCE: 49 FR 26232, June 27, 1984, unless otherwise noted.

### Subpart A—Organization and Functions

#### §800.1 Purpose.

This part describes the organization, functions, and operation of the National Transportation Safety Board (Board).

#### §800.2 Organization.

The Board consists of five Members appointed by the President with the advice and consent of the Senate. One of the Members is designated by the President as Chairman with the advice and consent of the Senate, and one was Vice Chairman. The Members exercise various functions, powers and duties set forth in Titles VI and VII of the

Federal Aviation Act of 1958 (49 U.S.C. 44101–46501), and the Independent Safety Board Act of 1974 (88 Stat. 2166 *et seq.* (49 U.S.C. 1101 *et seq.*)). The Board is an independent agency of the United States. A detailed description of the Board and its components is published in the Board's internal orders, which are available for inspection and copying in the public reference room in the Washington office of the Board. Various special delegations of authority from the Board and the Chairman to the staff are set forth in Subpart B of this part. The Board's staff is comprised of the following principal components:

(a) The Office of the Managing Director, which assists the Chairman in the discharge of his functions as executive and administrative head of the Board; coordinates and directs the activities of the staff; is responsible for the day-to-day operation of the Board; and recommends and develops plans to achieve the Board's program objectives. The Office of the Managing Director also provides executive secretariat services to the Board.

(b) The Office of Public Affairs, which supplies the public, the transportation industry and the news media, with current, accurate information concerning the work, programs, and objectives of the Board.

(c) The Office of Government Affairs, which supplies the Congress and Federal, State and local government agencies with information regarding the Safety Board's activities, programs and objectives.

(d) The Office of the General Counsel, which provides legal advice and assistance to the Board and its staff components; prepares Board rules, opinions and/or orders, and advice to all offices and bureaus on matters of legal significance; and represents the Board in court actions to which the Board is a party or in which the Board is interested.

(e) The Office of Administrative Law Judges, which conducts all formal proceedings arising under the Federal Aviation Act of 1958, as amended, including proceedings involving civil penalties and suspension or revocation

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of certificates, and appeals from actions of the Administrator in refusing to issue airman certificates.

(f) The Office of Aviation Safety, which conducts investigations of all aviation accidents within the Board's jurisdiction; prepares reports for submission to the Board and release to the public setting forth the facts and circumstances of such accidents, including a recommendation as to the probable cause(s); determines the probable cause(s) of accidents when delegated authority to do so by the Board; initiates safety recommendations to prevent future aviation accidents; participates in the investigation of accidents that occur in foreign countries and involve U.S.-registered and/or U.S.-manufactured aircraft; and conducts special investigations into selected aviation accidents involving safety issues of concern to the Board.

(g) The Office of Surface Transportation Safety, which conducts investigations of highway, railroad, pipeline, marine, and hazardous materials accidents within the Board's jurisdiction; prepares reports for submission to the Board and release to the public setting forth the facts and circumstances of such accidents, including a recommendation as to the probable cause(s); determines the probable cause(s) of accidents when delegated authority to do so by the Board; initiates safety recommendations to prevent future surface transportation accidents; participates in the investigation of accidents that occur in foreign countries and involve U.S.-registered vessels; and conducts special investigations into selected surface accidents involving safety issues of concern to the Board.

(h) The Office of Safety Recommendations, which oversees the Board's safety recommendations program, including the Board's "MOST WANTED" recommendations.

(i) The Office of Research and Engineering, which provides technical advice and services; conducts research and carries out analytical studies and tests on all aspects of the Board's accident investigation, accident prevention and safety promotion activities; conducts safety studies of specific safety issues; performs statistical analyses of

transportation accident and incident data; maintains archival records of the Board's accident investigation and safety promotion activities and supports public access to these records; and supports the Board's data processing, computing and information management requirements.

(j) The Office of Administration, which provides administrative support for the Board in the following areas: budget, accounting and audit; personnel, training and payroll; information management and automatic data processing; property, space, communications, facilities and transportation management; and printing, publications, mail, procurement, contracting, and accident inquiry services.

[60 FR 61488, Nov. 30, 1996, as amended at 61 FR 14521, April 2, 1995]

### §800.3 Functions.

(a) The primary function of the Board is to promote safety in transportation. The Board is responsible for the investigation, determination of facts, conditions, and circumstances and the cause or probable cause or causes of: all accidents involving civil aircraft, and certain public aircraft; highway accidents, including railroad grade-crossing accidents, the investigation of which is selected in cooperation with the States; railroad accidents in which there is a fatality, substantial property damage, or which involve a passenger train; pipeline accidents in which there is a fatality, significant injury to the environment, or substantial property damage; and major marine casualties and marine accidents involving a public and a non-public vessel or involving Coast Guard functions. The Board makes transportation safety recommendations to Federal, State, and local agencies and private organizations to reduce the likelihood of recurrences of transportation accidents. It initiates and conducts safety studies and special investigations on matters pertaining to safety in transportation, assesses techniques and methods of accident investigation, evaluates the effectiveness of transportation safety consciousness and efficacy in preventing accidents of other Government agencies, and evaluates

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the adequacy of safeguards and procedures concerning the transportation of hazardous materials.

(b) Upon application of affected parties, the Board reviews in quasijudicial proceedings, conducted pursuant to the provisions of the Administrative Procedure Act, 5 U.S.C. 551 *et seq.*, denials by the Administrator of the Federal Aviation Administration of applications for airman certificates and orders of the Administrator modifying, amending, suspending, or revoking certificates or imposing civil penalties. The Board also reviews on appeal the decisions of the Commandant, U.S. Coast Guard, on appeals from orders of administrative law judges suspending, revoking, or denying seamen licenses, certificates, or documents.

(c) The Board, as provided in Part 801 of this chapter, issues reports and orders pursuant to its duties to determine the cause or probable cause or causes of transportation accidents and to report the facts, conditions and circumstances relating to such accidents; issues opinions and/or orders after reviewing on appeal the imposition of a civil penalty or the suspension, amendment, modification, revocation, or denial of any certificate or license issued by the Secretary of the Department of Transportation (who acts through the Administrator of the Federal Aviation Administration or the Commandant of the United States Coast Guard); and issues and makes available to the public safety recommendations, safety studies, and reports of special investigations.

[60 FR 61488, Nov. 30, 1995]

#### § 800.4 Operation.

In exercising its functions, duties, and responsibilities, the Board utilizes:

(a) The Board's staff, consisting of specialized offices dealing with particular areas of transportation safety and performing administrative and technical work for the Board. The staff advises the Board and performs duties for the Board that are inherent in the staff's position in the organizational structure or that the Board has delegated to it. The staff is described more fully in § 800.2.

#### 49 CFR Ch. VIII (10–1–97 Edition)

(b) Rules published in the FEDERAL REGISTER and codified in this Title 49 of the Code of Federal Regulations. These rules may be inspected in the Board's public reference room, or purchased from the Superintendent of Documents, Government Printing Office.

(c) Procedures and policies set forth in the agency's internal directives system which govern the activities of employees and organizational components of the Board. The internal directives system is designated as the NTSB Manual and consists of instructions which are called NTSB Orders and NTSB Notices.

(d) Meetings of the Board Members conducted pursuant to the Government in the Sunshine Act.

(e) Public hearings in connection with transportation accident investigations and public hearings and oral arguments in proceedings concerned with certificates or licenses issued by the Secretary or an Administrator of the Department of Transportation. They are held at the time and place announced in the notices thereof which are served on the parties to the proceedings or published in the FEDERAL REGISTER.

[49 FR 26232, June 27, 1984, as amended at 60 FR 61489, Nov. 30, 1995]

#### § 800.5 Office locations.

The principal offices of the National Transportation Safety Board are located at 490 L'Enfant Plaza East, SW., Washington, DC 20594. The Board maintains field offices in selected cities throughout the United States.

[60 FR 61489, Nov. 30, 1995]

#### § 800.6 Availability of information and materials.

Part 801 of this chapter provides detailed information concerning the availability of Board documents and records. That part also provides a fee schedule and information concerning inspection and copying.

**Subpart B—Delegations of Authority to Staff Members****§ 800.21 Purpose.**

The purpose of this Subpart B is to publish special delegations of authority to staff members.

[60 FR 61489, Nov. 30, 1995]

**§ 800.22 Delegation to the Managing Director.**

(a) The Board delegates to the Managing Director the authority to:

(1) Make the final determination, on appeal, as to whether to withhold a Board record from inspection or copying, pursuant to Part 801 of this chapter.

(2) Approve for publication in the FEDERAL REGISTER notices concerning issuance of accident reports and safety recommendations and responses to safety recommendations, as required by sections 304(a)(2) and 307 of the Independent Safety Board Act of 1974 (49 U.S.C. 1131(d) and 1135(c)).

(b) The Chairman delegates to the Managing Director the authority to exercise and carry out, subject to the direction and supervision of the Chairman, the following functions vested in the Chairman:

(1) The appointment and supervision of personnel employed by the Board;

(2) The distribution of business among such personnel and among organizational components of the Board; and

(3) The use and expenditure of funds.

[60 FR 61489, Nov. 30, 1995]

**§ 800.23 Delegation to the administrative law judges, Office of Administrative Law Judges.**

The Board delegates to the administrative law judges the authority generally detailed in its procedural regulations at Part 821 of this chapter.

[60 FR 61489, Nov. 30, 1995]

**§ 800.24 Delegation to the General Counsel.**

The Board delegates to the General Counsel the authority to:

(a) Approve, disapprove, request more information, or otherwise handle requests for testimony of Board employees with respect to their participation

in the investigation of accidents, and, upon receipt of notice that an employee has been subpoenaed, to make arrangements with the court either to have the employee excused from testifying or to give the employee permission to testify in accordance with the provisions of Part 835 of this Chapter.

(b) Approve or disapprove in safety enforcement proceedings, for good cause shown, requests for extensions of time or for other changes in procedural requirements subsequent to the initial decision, grant or deny requests to file additional and/or *amicus* briefs pursuant to §§ 821.9 and 821.48 of this Chapter, and raise on appeal any issue the resolution of which he deems important to the proper disposition of proceedings under § 821.49 of this Chapter.

(c) Approve or disapprove, for good cause shown, requests to extend the time for filing comments on proposed new or amended regulations.

(d) Issue regulations for the purpose of making editorial changes or corrections in the Board's rules and regulations.

(e) Issue orders staying or declining to stay, pending judicial review, orders of the Board suspending or revoking certificates, and consent to the entry of judicial stays with respect to such orders.

(f) Compromise civil penalties in the case of violations arising under The Independent Safety Board Act of 1974, as amended, or any rule, regulation, or order issued thereunder.

(g) Issue orders dismissing appeals from initial decisions of Board administrative law judges pursuant to the request of the appellant or, where the request is consensual, at the request of any party.

(h) Correct Board orders by eliminating typographical, grammatical, and similar errors, and make editorial changes therein not involving matters of substance.

(i) Take such action as appropriate or necessary adequately to compromise, settle, or otherwise represent the Board's interest in judicial or administrative actions to which the Board is a party or in which the Board is interested.

[60 FR 61489, Nov. 30, 1995]

**§ 800.25 Delegation to the Directors of Office of Aviation Safety and Office of Surface Transportation.**

The Board delegates to the Directors, Office of Aviation and Office of Surface Transportation, the authority to:

(a) Order an investigation into the facts, conditions, and circumstances of accidents that the Board has authority to investigate.

(b) Disclose factual information pertinent to all accidents or incidents as provided for in Part 801 of this chapter.

(c) Determine the probable cause(s) of accidents in which the determination is issued in the "Brief of Accident" format, except that the Office Director will submit the findings of the accident investigation to the Board for determination of the probable cause(s) when (1) any Board Member so requests, (2) it appears to the Office Director that, because of significant public interest, a policy issue, or a safety issue of other matter, the determination of the probable cause(s) should be made by the Board, or (3) the accident investigation will be used to support findings in a special investigation or study. Provided, that a petition for reconsideration or modification of a determination of the probable cause(s) made under § 845.41 of this Chapter shall be acted on by the Board.

(d) Consistent with Board resources, investigate accidents as provided under § 304(a) of the Independent Safety Board Act of 1974, as amended (49 U.S.C. 1131(a)) and the Appendix to this Part.

[60 FR 61489, Nov. 30, 1995]

**§ 800.26 Delegation to the Director, Office of Administration.**

The Board delegates to the Director, Office of Administration, the authority to:

(a) Determine, initially, the withholding of a Board record from inspection or copying, pursuant to Part 801 of this Chapter.

(b) Settle claims for money damages of \$2,500 or less against the United States arising under Section 2672 of 28 United States Code (the Federal Tort Claims Act) because of acts or omissions of Board employees.

[60 FR 61490, Nov. 30, 1995]

**§ 800.27 Delegation to investigative officers and employees of the Board.**

The Board delegates to any officer or employee of the Board designated by the Chairman of the Safety Board the authority to sign and issue subpoenas, and administer oaths and affirmations, and to take depositions or cause them to be taken in connection with the investigation of transportation accidents or incidents.

[60 FR 61490, Nov. 30, 1995]

**APPENDIX TO PART 800—REQUEST TO THE SECRETARY OF THE DEPARTMENT OF TRANSPORTATION TO INVESTIGATE CERTAIN AIRCRAFT ACCIDENTS**

(a) Acting pursuant to the authority vested in it by Title VII of the Federal Aviation Act of 1958 (49 U.S.C. 1441) and section 304(a)(1) of the Independent Safety Board Act of 1974, the National Transportation Safety Board (Board) hereby requests the Secretary of the Department of Transportation (Secretary) to exercise his authority subject to the terms, conditions, and limitations of Title VII and section 304(a)(1) of the Independent Safety Board Act of 1974, and as set forth below to investigate the facts, conditions, and circumstances surrounding certain fixed-wing and rotorcraft aircraft accidents and to submit a report to the Board from which the Board may make a determination of the probable cause.

(b) The authority to be exercised hereunder shall include the investigation of all civil aircraft accidents involving rotorcraft, serial application, amateur-built aircraft, restricted category aircraft, and all fixed-wing aircraft which have a certificated maximum gross takeoff weight of 12,500 pounds or less except:

(1) Accidents in which fatal injuries have occurred to an occupant of such aircraft, but shall include accidents involving fatalities incurred as a result of aerial application operations, amateur-built aircraft operations, or restricted category aircraft operations.

(2) Accidents involving aircraft operated in accordance with the provisions of Part 135 of the Federal Air Regulations entitled "Air Taxi Operators and Commercial Operators of Small Aircraft."

(3) Accidents involving aircraft operated by an air carrier authorized by certificate of public convenience and necessity to engage in air transportation.

(4) Accidents involving midair collisions.

(c) *Provided*, That the Board may, through the chiefs of its field offices, or their designees who receive the initial notifications, advise the Secretary, through his appropriate designee, that the Board will assume

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the full responsibility for the investigation of an accident included in this request in the same manner as an accident not so included; and *Provided further*, That the Board, through the chiefs of its field offices, or their designees who receive initial notifications may request the Secretary, through his appropriate designee, to investigate an accident not included in this request, which would normally be investigated by the Board under section (b) (1) through (4) above, and in the same manner as an accident so included.

(d) *Provided*, That this authority shall not be construed to authorize the Secretary to hold public hearings or to determine the probable cause of the accident; and *Provided further*, That the Secretary will report to the Board in a form acceptable to the Board the facts, conditions, and circumstances surrounding each accident from which the Board may determine the probable cause.

(e) *And provided further*, That this request includes authority to conduct autopsies and such other tests of the remains of deceased persons aboard the aircraft at the time of the accident, who die as a result of the accident, necessary to the investigations requested hereunder and such authority may be delegated and redelegated to any official or employee of the Federal Aviation Administration (FAA). For the purpose of this provision, designated aviation examiners are not deemed to be officials or employees of the FAA.

(f) Invoking the provisions of section 701(f) of the Federal Aviation Act of 1958, and section 304(a)(1) of the Independent Safety Board Act of 1974, is necessary inasmuch as sufficient funds have not been made available to the Board to provide adequate facilities and personnel to investigate all accidents involving civil aircraft. This request, therefore, is considered to be temporary in nature and may be modified or terminated by written notice to the Secretary.

### PART 801—PUBLIC AVAILABILITY OF INFORMATION

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#### APPENDIX TO PART 801—FEE SCHEDULE

AUTHORITY: 5 U.S.C. 552; 49 U.S.C. 1101 et seq.; 18 U.S.C. 641 and 2071.

SOURCE: 41 FR 39755, Sept. 16, 1976, unless otherwise noted.

#### Subpart A—Applicability and Policy

##### § 801.1 Applicability.

(a) This part implements the provisions of the Freedom of Information Act (5 U.S.C. 552) as amended by Pub. L. 93-502, November 21, 1974, and the